



AB 438 (Parra): MEGAN'S LAW IMPACTS HOUSING PROVIDERS

BACKGROUND

The California Apartment Association (CAA) supports the original intent of the Megan's Law Web site, but it has placed rental property owners and managers in a difficult position. Governor Schwarzenegger signed AB 488 last year, expanding the scope of Megan's Law by requiring information about sex offenders to be available on the Internet. This easy access to the Megan's Law registry has heightened public interest and awareness of convicted sex offenders in communities throughout California. Residents are discovering that their families might be living next to convicted sex offenders, including pedophiles and rapists.

PROBLEM

CAA members want to provide a safe living environment for their residents. Unfortunately, California law has given rental property owners and managers a conflicting directive. Current state law effectively prohibits use of the Megan's Law website to deny housing to listed sex offenders. If a residential rental property owner or manager learns from the database that someone is a sex offender, he/she cannot deny the sex offender housing or warn other residents based on this knowledge, without the risk of being sued by the sex offender. At the same time, the law also exposes rental property owners to lawsuits if they fail to protect residents against a known risk—in this case, someone with a documented criminal history of sexual assault against children, women, and other residents. From a penalty perspective, heavy fines, including a civil penalty of up to \$25,000, can be imposed upon a landlord for unlawfully using the Megan's Law database to discriminate against or harass a sex offender. This contradiction in state law places all California rental property owners and managers and the California Apartment Association in a difficult (or no-win) situation.

The fact, for example, that the sex offender information is easily available on the Internet and includes the sex offender's home address has substantially increased the number of situations where the public, including tenants and neighboring property owners, discover the sex offender status of existing and prospective tenants. Thus, owners have to choose between either evicting the sex offender (thereby facing potential lawsuits for discriminating against the sex offender); or allow the sex offender to stay on the property (thereby encouraging an exodus of existing tenants who refuse to allow their families to live in close proximity to a potentially dangerous sex offender). Moreover, by allowing the sex offender to live on their property the owner may expose the property and other residents to vandalism, public protest, and other forms of public scorn that will jeopardize the owner's ability to operate the property safely and profitably.

SOLUTION

CAA is sponsoring Assembly Bill 438 by State Assemblymember Nicole Parra (D-Hanford) in order to fix these flaws in the law. The California Apartment Association believes that the California Legislature needs to pass legislation to clarify and update housing law as it relates to the sex offender registry in order to allow rental housing providers to protect residents from sex offenders. The improvements to Megan's Law, proposed by AB 438 are:

- Clarifying that rental housing providers can use the Megan's Law database to act decisively in the interests and safety of other tenants. Rental housing providers should be able to protect their residents by refusing to house high-risk sex offenders, by evicting high-risk sex offenders, or by notifying other tenants.
- Clarifying that Megan's Law does not make a sexual registrant part of a "protected class."
- Developing a mechanism to trigger and mandate the prompt correction of inaccurate home address information from the Web site. The owner of the rental property and the tenant that currently lives in the unit that was formerly occupied by a registered sex offender should not be forced to deal with the potential health, safety, and financial risks created by the public's perception that the unit is occupied by a registered sex offender.
- Clarifying that rental housing providers must inform tenants through the rental lease of the Internet sex offender Web site, that rental housing providers do not have a duty to obtain or disclose sex offender information; and that rental housing providers do not have duty to evict or deny housing to sex offenders.



Aaron Read & Associates, LLC

LEGISLATIVE AND
GOVERNMENTAL REPRESENTATION

March 23, 2005

Honorable Nicole Parra
California State Assembly
State Capitol, Room 4005
Sacramento, CA 95814

**RE: AB 438 Sex offenders
SUPPORT**

Dear Assemblymember Parra:

On behalf of our client, the Peace Officers Research Association of California (PORAC), representing 58,600 rank-and-file peace officers and 710 local peace officer associations, I am writing to inform you of their support for your AB 438, relating to sex offenders.

We look forward to the successful passage of the bill. Please feel free to call if we can be of assistance.

Sincerely,

RANDY PERRY
Legislative Advocate

cc: Honorable Mark Leno, Chair, Assembly Public Safety Committee
Consultant, Assembly Public Safety Committee
Peace Officers Research Association of California

RF:dp
4.070

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California State Sheriffs' Association

Organization Founded by the Sheriffs in 1894

March 18, 2005

The Honorable Nicole Parra
 Member of the Assembly
 4005 State Capitol Building
 Sacramento, CA 95814

Subject: AB 438 (Parra) – Support

Dear Assembly Member Parra:

On behalf of the California State Sheriffs' Association, I am pleased to inform you that we have reviewed your AB 438, relative to sex offenders, and we are pleased to support the bill.

We suggest that the bill is well crafted, that it addresses a real problem and that the solution contemplated in AB 438 is most reasonable. For these reasons, we are pleased to support the measure. Thank you.

Cordially,

Nick Warner
 Legislative Director

cc: The Honorable Mark Leno, Chair, Assembly Public Safety Committee
 The Honorable Jay La Suer, Vice Chair, Assembly Public Safety Committee (c/o Gary Olson)

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April 26, 2005

Honorable Nicole Parra
Member of the Assembly
State Capitol
Sacramento, CA 95814

Dear Assembly Member: Parra

The California Peace Officers' Association represents the entire scope of the law enforcement profession. Our 3500 members include sheriffs, police chiefs, management officers at the state, county and city levels, as well as rank and file officers. Our Law & Legislation Committee closely examines all bills having a potential impact on law enforcement.

We are pleased to inform you that CPOA is in support of your bill, AB 438. Please let us know if we may be of assistance in securing passage of this legislation.

Sincerely,

Jerry Adams
President
California Peace Officers' Association

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MILPITAS REQUESTING THE STATE LEGISLATURE TO PASS ASSEMBLY BILL 438 (PARRA)
TO PROTECT FAMILIES LIVING IN RENTAL COMMUNITIES FROM SERIOUS AND HIGH RISK
SEX OFFENDERS**

WHEREAS, the City of Milpitas seeks to ensure safe and affordable housing for its residents; and

WHEREAS, there are a significant number of families and individuals residing in rental communities throughout the City; and

WHEREAS, rental housing providers are in a precarious situation due to the rent availability of sex offender information over the Internet; and

WHEREAS, rental housing providers seek to be able to protect their tenants from the known dangerous propensities of other tenants; and

WHEREAS, state law currently prohibits rental housing providers from using information contained on the state Megan's Law database to make housing decisions; and

WHEREAS, state law currently prohibits rental housing providers from notifying tenants if there is a serious or high risk sex offender residing in the rental community, and

WHEREAS, rental housing providers need clear direction from the State and relief from the current situation;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milpitas does hereby request the State Legislature to pass Assembly Bill 438 to protect families living in rental communities from serious high risk sex offenders.

PASSED AND ADOPTED this _____ day of _____ 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney